

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

TIM AXELSON, ADC #97108

Plaintiff,

v.

No. 5:12CV00339-SWW-JJV

CORIZON MEDICAL SERVICES
INC.; *et al.*,

Defendants.

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe and Plaintiff's Objections. After carefully considering the objections and making a *de novo* review of the relevant record, see 28 U.S.C. § 636(b)(1)(C), the Court concludes that the Proposed Findings and Recommended Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects.

IT IS, THEREFORE, ORDERED that:

1. Defendants' Motion for Summary Judgment (Doc. No. 113) is GRANTED.
2. Plaintiff's claims against Defendants Hobbs and Banks are dismissed without prejudice for failure to exhaust administrative remedies.
3. Plaintiff's claims against Defendant Kelley are dismissed with prejudice.
4. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma*

pauperis appeal from this Order and the accompanying Judgment would not be taken in good faith.¹

IT IS SO ORDERED this 3rd day of June 2014.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE

¹ In his objections [doc.#131], Plaintiff complains that “[t]he proof that [Judge Volpe] didn’t even read my complaint is in the fact that he never responded to my motion for appointment of counsel (DE: 103-0 at 10, 11)” and argues “[t]he court should rule on pending motions for counsel before dismissing the complaint.” The Court notes, however, that that particular motion for appointment of counsel was attached as an exhibit to Plaintiff’s brief in support [doc.#103] of his motion for a preliminary injunction [doc.#102]—it was not properly filed or submitted as a motion for the appointment of counsel and the Clerk appropriately did not docket it as such. Judge Volpe did, however, deny without prejudice Plaintiff’s earlier motion for the appointment of counsel [doc.#37] by Order entered January 22, 2013 [doc.#39]. Thus, Judge Volpe ruled on Plaintiff’s motion for the appointment of counsel prior to issuing his Proposed Findings and Recommended Dispositions.